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October 9, 2001

Crimson Hills Motel
Mr. Cowan Dawson
400 South Hwy. 91
Parowan, Utah 84761

Subject: Findings and Order - in re Crimson Hills Motel

Dear Mr. Dawson:

Enclosed are the Findings and Order with respect to the hearing held September 26, 2001. We appreciate your time and effort in working with us in this matter. I remind you that should you desire to pursue your appeal further that you have 30 days to file a court action.

Sincerely,

David K. Miles, P. E.
Operations Engineer

DKM:js

Enclosures

cc: Mark Burns
Teri Peterson
James H. Beadles
Lyle McMillan

**FINDINGS AND FINAL ORDER
CRIMSON HILLS MOTEL
HEARING OF SEPTEMBER 26, 2001**

On September 26, 2001, the Utah Department of Transportation convened a hearing, by telephone, on an appeal by Cowan Dawson, owner of the Crimson Hills Motel. UDOT-Region 4 issued a Notice of Agency Action against the motel, alleging that it had erected two illegal billboards. Mr. Dawson responded to the notice and requested an appeal. David Miles, UDOT Operations Engineer and designated Hearing Examiner, convened the hearing, after contacting Mark Burns, assistant attorney general, representing Region 4, his witnesses, permit officers Teri Peterson and Scott Snow, and Cowan Dawson, representing himself.

FINDINGS

With the permission of the Parowan City Council, Mr. Dawson placed two billboards on property he owns along SR 143 in Parowan advertising the Crimson Hills Motel. The motel is located on U.S. 91, some distance away from the billboards. Mr. Dawson admitted that the motel does not sit on property contiguous with the billboard property. Mr. Dawson did not apply for a billboard permit with UDOT-Region 4. However, it appears he tried to apply for one after the billboards were raised. He was informed that a permit could not be granted because SR 143 is a scenic byway under federal law, and, therefore, off-premise billboards could not be allowed.

Shortly afterward, UDOT-Region 4 issued its Notice of Agency Action. Teri Peterson and Scott Snow, permit officers with the region, testified as to the history of the billboards and their issuance of the notice. The notice ordered Mr. Dawson to take down the billboards because they were in violation of both state and federal law. Utah Code Ann. § 72-7-507(1)(a) allows outdoor advertising only with a permit. Because Mr. Dawson raised his billboards without a permit, he violated this provision of state law. Federal law prohibits off-premise signs along scenic byways. 23 U.S.C. § 131(s). Mr. Dawson did not contest the fact that SR 143 is currently designated a scenic byway. Consequently, his billboards also violate that provision of federal law.

Mr. Dawson did not contest the allegations contained in the agency notice, nor the testimony of Ms. Peterson or Mr. Snow. Instead, he stated that Parowan City was working


with the Federal Highway Administration (FHWA) to have the scenic byway designation removed from that portion of SR 143. He admitted that the designation had not yet been removed, but asked that UDOT allow the billboards to remain pending FHWA's decision. If FHWA denied the request, Mr. Dawson said that he would take the billboards down voluntarily.

ORDER

The department sympathizes with Mr. Dawson's predicament. He is unable to advertise his business because of a federal scenic byway designation that he and Parowan City are trying, through legal channels, to have removed. The department accepts Mr. Dawson's assertion that the billboards have increased his business revenue. However, the Department is unable to accept Mr. Dawson's invitation to ignore the ongoing violations of law presented by the existence of these billboards. Mr. Dawson did not deny, and UDOT-Region 4 presented sufficient evidence to show, that the billboards violated Subsection 72-7-507(1)(a) and 23 U.S.C. § 131(s).

Therefore, Mr. Dawson is ordered to remove both billboards within twenty (20) days. If he has not removed the billboards by the end of that time, the department will remove them and will bill Mr. Dawson for the costs and expenses incurred.¹

DATED THIS 9th day of October 2001.


David K. Miles, P.E.
Hearing Examiner

cc: Mark Burns
Teri Peterson
James H. Beadles
Lyle McMillan

¹ Within 30 days of the issuance of this order, judicial review may be obtained by filing a complaint in state district court pursuant to Utah Code Ann. § 63-46b-15.